RESOLUTION
TOWNSHIP OF CHERRY HILL PLANNING BOARD
APPLICANT’S NAME: SULTANI ENTERPRISES, LLC (KABOB CAFÉ)
200 HADDONFIELD ROAD
EBLOCK 207.01 LOT 1
CHERRY HILL, NEW JERSEY
APPLICATION NO.: 15-P-0006

WHEREAS, the Applicant, Sultani Enterprises, LLC (Kabob Café), has submitted an application for minor site plan approval with bulk (c) variances to make various site improvements in order to convert an existing vacant restaurant site into a new twenty-four (24) seat restaurant (Kabob Café) with various site improvements at the property located at 200 Haddonfield Road, Cherry Hill, New Jersey, also known as Eblock 207.01, Lot 1 on the tax maps of the Township of Cherry Hill; and

WHEREAS, after a public hearing held on March 20, 2017, the following initial findings of fact were made, to wit:

1. The Applicant has submitted an application for minor site plan approval and bulk (c) variance approval to make various site improvements in order to convert an existing vacant restaurant site into a new twenty-four (24) seat restaurant (Kabob Café) with various site improvements for the property located at 200 Haddonfield Road, Cherry Hill, New Jersey.

2. The site is located in the western portion of Cherry Hill Township in the Highway Business (B2) zone, directly west across from the Shopping Center Business (B3) zoned Cherry Hill Mall and nearby the Residential (R3) zoned Barlow neighborhood. Other nearby major roads include Church Road to the north and Dudley Avenue to the south. Properties along the western side of Haddonfield Road are primarily zoned Highway Business (B2). The site is approximately 1.4 acres in size.

3. By way of history, the subject property was built in 1960. Records from 1961 and 1962 indicate requests for subdivision approval but it is unclear exactly if and when the requests were granted. In March of 2001, a zoning permit (ZA #42331) was issued to perform various interior renovations and site improvements including a new seal and coat of the parking lot, a new trash enclosure, and parking signage for existing pizza store (formerly known as Scotto’s Pizza). In August of 2001, a zoning permit (ZA #41712) was issued for a new awning or the existing pizza store.

4. The following variances are requested with this application:

a. From Ordinance Section 415.F, to permit a minimum lot area of 17,310 SF, where a minimum lot area of 20,000 SF is required. This is a pre-existing non-conforming condition.

b. From Ordinance Section 415.F, to permit a minimum lot depth of 136’, where a minimum lot depth of 150′ is required. This represents a pre-existing non-conforming condition.

c. From Ordinance Section 511.8.5, to permit a total of fourteen (14) parking spaces, where a maximum of thirteen (13) parking spaces is permitted.

d. From Ordinance Section 511.H.2.b, to permit a right-of-way (ROW) parking setback of 17.57’, where a minimum setback of twenty (20’) feet is required. This represents a lessening of a pre-existing non-conforming condition.

e. From Ordinance Section 511.H.2.c, to permit a non-residential parking setback of 3.91’, where a minimum setback of five (5’) feet is required. This represents a lessening of a pre-existing non-conforming condition.
f. From Ordinance Section 517.C.2.b, to permit a side property setback of 3.91', where a minimum setback of 15' is required. This is a pre-existing nonconforming condition.

g. From Ordinance Section 517.C.2.d.ii, to permit a property line setback of 3.44', where a minimum setback of 10' is required.

h. Any other variances deemed necessary by the Planning Board.

5. A number of design waivers are requested with this application, which design waivers are set forth in detail in the Department of Community Development’s review letter dated February 16, 2017, in subsection III.C. entitled Design Waivers.

6. Public notice of the hearing was provided in accordance with the requirements of the Municipal Land Use Law N.J.S.A. 40:55D-12; and

WHEREAS, the Planning Board made its decision in this matter based on the documentation and plans submitted by the Applicant, including a list of variances and waivers prepared by the Applicant’s Engineer, John W. Kornick, PE of K2 Consulting Engineers, Inc. dated September 15, 2016 which list of variances and waivers report was made part of the record by reference at the request of the Applicant’s attorney, Melanie Levan, Esq., the testimony of the Applicant’s representatives and the Applicant’s professionals made at the time of the hearing and on each of the following:

1. The completeness review letter dated February 16, 2017, as prepared by the Cherry Hill Township Department of Community Development;

2. The completeness review letter dated February 16, 2017 as prepared by the Planning Board Engineer, Environmental Resolutions, Inc.; and

WHEREAS, the Applicant’s Attorney, Melanie Levan, Esq. provided the Planning Board with a brief overview of the application and the variance relief being requested by the Applicant. The Applicant’s Engineer, John Kornick of K2 Consulting Engineers, Inc. appeared and testified in support of the application and in support of the requested variances, which testimony was in keeping with Mr. Kornick’s list of variances and waiver’s report dated September 15, 2016; and

WHEREAS, Kadir Sultani of Sultani Enterprises, LLC appeared and testified that he is proposing to convert the former Scotto’s Pizza site into a new 24 seat Kabob Café. Mr. Sultani testified that he anticipates having two to three employees on site with no waiting staff as the Kabob Café will operate as a buffet style restaurant similar to a pizza shop where orders are taken directly at the counter without the need for wait staff. Testimony was provided the hours of operation will be 11 a.m. to 10:30 p.m., Monday through Sunday. Mr. Sultani testified that there are no deliveries to the property and that all deliveries are made directly by his personal vehicle after purchasing supplies directly from private vendors. Testimony was provided that trash pickup will be approximately two times per week. Testimony was provided that the exterior of the property will be painted and repaired as needed and that the Applicant will be using the existing pylon sign. Mr. Sultani testified that it is his intention to resurface the entire parking lot and restripe the lot subject to the Township’s review and approval; and

WHEREAS, the Applicant’s Engineer, John Kornick, appeared and testified in support of the application. Mr. Kornick testified that the Applicant is proposing to change the use and site improvements of the proposed 24 seat restaurant identified as Kabob Café. Testimony was provided the existing building will remain, with exterior
renovation and upgrades. Testimony was provided that the existing 64 SF façade sign and the 32 SF pole mounted sign will remain and will be resurfaced with new signage. Testimony was provided the Applicant is proposing the renovation and upgrade of the existing parking facility, ADA parking and accessible routes and trash enclosures will be provided as depicted on the submitted site plan. Additional site plans will include landscaping and site lighting, all of which was agreed will be subject to final review and approval by the Department of Community Development and Planning Board Engineer. Mr. Kornick testified that the Applicant does not propose to change the existing drainage on site other than the areas that are the subject of the ADA accessible route upgrades and parking lot upgrades. Testimony was provided that the Applicant will comply with all applicable ADA standards for proposed parking lot and that all landscaping and lighting shall be subject to final review and approval of the Department of Community Development and Planning Board Engineer. Mr. Kornick further testified that the Applicant will work with the Department of Community Development to screen all existing mechanicals located on the roof with materials that are acceptable to the Department of Community Development; and

WHEREAS, extensive discussion was had with the Applicant and the Applicant’s Engineer regarding the proposed trash enclosure. The Applicant advised the Planning Board that it would like to use vinyl fencing around trash enclosure. It was the position of the Planning Board and the Department of Community Development that proposed vinyl fencing was not sufficient to properly screen and protect the trash enclosure area. As a result, it was agreed that the Applicant will build a trash enclosure in keeping with Cherry Hill Township ordinance standards; and

WHEREAS, appropriate testimony was provided by the Applicant’s Engineer in support of the requested variances. Mr. Kornick pointed out that the only new variance associated with the application related to parking and that all variances were for either pre-existing nonconforming conditions or the lessening of pre-existing nonconforming conditions as set forth in the Department of Community Development’s review letter dated February 16, 2017. It was the finding of the Planning Board that the Applicant’s Engineer demonstrated both the positive and negative criteria necessary for granting the requested variances and that all variances could be approved without substantial detriment to the public good and without impairment to the zone plan and zoning ordinances given existing site conditions. It was the finding of the Planning Board that the requested variances and waivers were appropriate give the proposed use of the property, location of the property and existing site conditions and that said variances and waivers were appropriate for the reasons set forth on the record in this matter; and

WHEREAS, the Planning Board opened the hearing to the public and no public comment was received on the application.

NOW, THEREFORE, based on the foregoing findings of fact and conclusions of law, including all testimony and evidence presented at the hearing, BE IT RESOLVED, by the Planning Board of the Township of Cherry Hill, New Jersey that application number: 15-P-0006 for minor site plan approval and bulk (c) variance approval to make various site improvements in order to convert an existing vacant restaurant site into a new 24 seat restaurant (Kabob Café) with various site improvements as submitted by the Applicant Sultani Enterprises, LLC for the property located at 200 Haddonfield Road, Cherry Hill, New Jersey is hereby GRANTED by a vote of nine (9) in favor and none opposed for the reasons set forth on the record in this matter and subject to the following conditions, findings of fact, terms and conclusions:

1. The Applicant shall revise its plans to satisfactorily address all of the comments and conditions contained in the Department of Community Development review letter dated February 16, 2017, except as noted on the record and in this Resolution.
2. The Applicant shall revise its plans to satisfactorily address all the comments and conditions contained in the Planning Board Engineer’s review letter dated February 16, 2017, except as noted on the record and in this Resolution.

3. All agreements and representations made by the Applicant as set forth at the hearing in this matter and/or as contained in the "WHEREAS" recital paragraphs in this Resolution must be fully satisfied by the Applicant.

4. All of the initial findings of fact as set forth in the "WHEREAS" paragraphs of this Resolution are hereby incorporated as further findings of fact.

5. It was the finding of the Planning Board and the Planning Board Professionals that the requested bulk (c) variances could be granted without substantial detriment to the public good and without impairment of the zone plan or zoning ordinances of the Township of Cherry Hill. It was the finding of the Planning Board that most of the requested variances were related to either pre-existing conditions or the lessening of pre-existing conditions except for the requested variances for parking.

6. It was the finding of the Planning Board that the requested variances and waivers were appropriate given the proposed use of the property, location of the property and the existing site conditions and that said variances and waivers were appropriate for the reasons set forth on the record in this matter.

7. It was the finding of the Planning Board that the Applicant’s Engineer demonstrated both the positive and negative criteria necessary for granting the requested variances and that all variances could be approved without substantial detriment to the public good and without impairment to the zone plan and zoning ordinances of the Township of Cherry Hill.

8. It was agreed as a condition of approval that all landscaping shall be subject to final review and approval by the Department of Community Development.

9. All site lighting shall be subject to final review and approval by the Department of Community Development and Planning Board Engineer.

10. The Applicant will comply with all ADA standards for parking.

11. The Applicant agreed as a condition of approval to build a trash enclosure pursuant to Cherry Hill Township ordinance standards.

12. It was agreed as a condition of approval that all deliveries and trash pick-up shall be restricted to between 7 a.m. to 10 p.m. pursuant to Township ordinance.

13. The Applicant agreed as a condition of approval to work with Planning Board Engineer regarding traffic circulation and directional signage on site.

14. The Applicant agreed as a condition of approval to perform a night light function test.

15. The Applicant is hereby notified that prior to the issuance of any zoning or building permits:

   a. All taxes and assessments shall be paid on the property for which this application is made. The Applicant shall submit proof that no taxes or assessments for local improvements are due or delinquent on the property for which the application is made.
b. Any and all conditions that are made part of this approval, including those noted by referenced in the report of the consultants to the Board must be satisfied.

c. Any and all outside agency approvals that are required must be obtained by the Applicant.

d. The Applicant will pay all required escrows, costs and professional fees associated with the application to the Department of Community Development within fourteen (14) days of receipt of the written requests for payment of escrow funds. Failure to pay the required escrow funds within the fourteen (14) day period after receipt of the written notice may result in the voiding of this approval. Negative escrow account balances shall incur interest at a rate of 1.5% per month. The Applicant shall also pay all required performance bonds and maintenance bonds deemed necessary by the Planning Board Professionals. Failure to pay the required performance bonds and/or maintenance bonds within the time frame stipulated by the Planning Board Professionals may result in the voiding of this approval.

e. Zoning permits must be obtained from the Zoning Officer.

f. Signed approvals must be obtained from the Department of Community Development.

g. The failure of the Applicant to comply with any of the conditions contained in this Resolution will permit the Planning Board at its sole option to rescind the approvals being granted by this Resolution and/or advise the Township to revoke any permits which have been issued to the Applicant.

h. The Applicant shall comply with all relevant COAH requirements of the Township Ordinance.

DATED: April 3, 2017

PLANNING BOARD OF THE
TOWNSHIP OF CHERRY HILL

BY:

LORI J. LUCIA, PP, AICP
PLANNING BOARD SECRETARY